These funds have promoted the establishment of agencies of various kinds that have in turn been chiefly instrumental in gradually bringing tuberculosis under control. These lines of defense may be catalogued briefly thus:

1. Twelve hundred institutions—sanatoria for tuberculosis and hospitals having tuberculosis departments—providing 95,000 beds for the treatment and prevention of tuberculosis, chiefly for adults.

2. Ten thousand public health nurses engaged in tuberculosis work.

3. One thousand clinics for diagnosing and finding tuberculosis.

4. More than 1,200 preventoria, summer camps, open-air schools and similar institutions for the care and treatment of children with various forms of tuberculosis or for those who have been in contact with tuberculosis, or who are subnormal physically.

5. One thousand nine hundred and eighty-one tuberculosis associations, including a state-wide organization in every state and local agencies in all of the larger population centers.

But the building of our national defense against tuberculosis is not completed. The disease still takes the lives of about 70,000 persons annually in the United States. Tuberculosis, although ranking seventh as a cause of death when all ages are considered, is the leading killer of people between 15 and 45. It remains the breaker of homes, the maker of orphans, and a constant threat to the life and happiness of everyone.

Hotis Test Is New Weapon Against Dairy Cow Disease.—A new test which promises to be a useful means of detecting mastitis, a troublesome and costly disease of dairy cattle, has been developed by research workers of the United States Department of Agriculture. The new method is known as the "Hotis test," named after its originator, R. P. Hotis of the Bureau of Dairy Industry, who died soon after conducting most of the experimental work.

Although the method has been applied only on a limited basis thus far, Department officials plan to give it practical field tests to determine its adaptability under various conditions, for the diagnosis of mastitis in dairy herds. A simple accurate test for the detecton of this disease in its early and latent stages has long been sought.

Mastitis, especially in dairy cows, has been a problem for many years. It is a disease of the milk glands which often results in abnormal milk and changes in the udder tissue in the animals infected. Large numbers of cows have been slaughtered because their udders have been so badly damaged as to make them unfit for milk production.

The trained veterinarian or inspector can often detect this disease by clinical symptoms that are apparent to the eye, or by careful examination with the hands. But there are certain early and latent stages in which the udder may be infected with the causative organisms, and yet a definite diagnosis may be difficult or impossible under usual methods.

A number of laboratory tests have been used to indicate such abnormal milk. Such tests include the direct microscopic examination, leukocyte count, chlorid test, brom-thymol-blue test, catalase test, and bacteriologic culture methods on certain differential media. Usually two or more of these tests have been used together, as one test may show a reaction where others fail.

The new test brought out by the Bureau of Dairy Industry is believed to be more accurate than any other heretofore used. In addition, it is comparatively simple and requires little equipment, thus allowing the handling of a large number of samples at one time.

By the use of this test it appears that incipient or latent infections with the mastitis streptococcus may be quickly detected. This will allow segregation of the infected animals and permit prompt methods to prevent spreading. Infected cows should be milked last, and the milker should rinse his hands in a chlorin solution after milking each cow. If milking machines are used, the teat cups should be rinsed thoroughly with water, then with a chlorin solution, before they are placed on the next animal.

LETTERS

Concerning automobile injuries.

WESTWAYS*

November 2, 1936.

To the Editor:—I thank you for sending me the copy of CALIFORNIA AND WESTERN MEDICINE.

I think I need not tell you that none is more aware of the deplorable accident situation in the United States today than the Automobile Club of Southern California. We have studied the problem for many years and have considered it from every possible angle. The point of view that there are entirely too many incompetent drivers operating motor vehicles today is probably the most generally accepted reason for the high casualty rate. How to eliminate these unfits is a problem that, from its practical aspects, is a most difficult one.

The existing law requiring physical examinations has many glaring defects. Were it to be rigidly and impartially enforced it would still fall far short of proving a noteworthy correctional measure. This is because of the fact that it makes no provision for testing the psychological as opposed to the physiological qualifications of the driver. There are many of us who believe that the mentally unfit (temporarily or otherwise) are probably responsible for more accidents than the physically unfit. In the class of the mentally unfit will be found the "repeater," who is the cause of accident after accident. He may be of the emotionally unbalanced type, a victim of delusions or a sufferer from any one of many neurological ailments which prevent rapid reactions in times of emergency. The present law doesn't touch this type of individual, and yet we all know that he is a distinct menace to himself and to his fellow motorists. When we have devised a means for determining those who are congenitally disposed toward accidents and can take them out from behind the wheels of motor vehicles, we shall have gone a long way toward solving the accident problem.

I noted with interest your relative figures as to the geographical accident localities. Without being captious I think the per capita method of rating accidents is hardly fair. We have practically abandoned it, for we feel that gasoline consumption is a more equitable gauge for measuring the relative hazards in various areas. And there is considerable difference between two scales of measurement. On the basis of gasoline consumption, for instance, we find that the national average death rate in 1935 was 22.8 deaths per 10,000,000 gallons of gasoline consumed. The lowest rate prevailed in Rhode Island, where it dropped to 10.2; the highest in Georgia, where it reached 35.4. By this basis of calculation the California figure was 20.9—not an enviable record by any manner of means, but yet somewhat below the national average. Unfortunately we do not have these figures for various cities. It would be interesting to compare them with the per capita death rate.

Again I want to thank you for sending me your publication, which has proven of great interest to me.

Very sincerely yours,

PHIL TOWNSEND HANNA,
Editor and General Manager.

Concerning legal jurisdiction of district coroners.

STATE OF CALIFORNIA
LEGAL DEPARTMENT

San Francisco, October 23, 1936.

Honorable Walter M. Dickie,
Director of Public Health,
313 State Building,
San Francisco.

Dear Sir:—In your communication of September 17, 1936, you state that a seaman died aboard the steamer *S. C. T. Dodd* as it was being untied from a pontoon wharf at Estero Bay, San Luis Obispo County, California.

* Owned and published monthly by the Automobile Club of Southern California.

According to your statement a physician of that county pronounced the man dead without evidence of external violence.

The boat proceeded to Richmond, and the coroner of Contra Costa County was notified the body of the deceased was aboard the ship. The remains were taken in charge by the coroner and, after inquest, a verdict as follows was returned:

Coronary occlusion, and we further find no censure due the captain of said boat in bringing the body to Richmond dock, owing to the difficulties attendant on removing body to shore at Estero Bay, California.

A death certificate was issued in Contra Costa County, a copy kept in the Richmond Health Office, and the original filed in your Bureau of Vital Statistics in Sacramento.

The remains were taken in charge by the authorized representative of the Sailors' Union in San Francisco and are no longer available for autopsy by the coroner of San Luis Obispo County, if, indeed, it was under the circumstances his duty to conduct an autopsy and issue a certificate of death upon the seaman, who did in fact die in his county.

You state that similar situations frequently occur in San Francisco Bay, where a boat at the exact time of death is in one county, but proceeds to dock in another, and ask the following three questions:

First: Should the certificate filed by the coroner of Contra Costa County be permitted to stand alone on our official record?

Second: Has the coroner of San Luis Obispo County jurisdiction to issue a death certificate from his county? In this connection, I would state that the body is not available for autopsy by such coroner.

Third: Should a certificate of death be issued by the coroner of San Luis Obispo County, and should it be attached to the certificate of death already filed from Contra Costa County. It occurs to me that the answer to this question is extremely important to the State due to the geographical contour of California.

In reply, I would first agree that the geographical contour of California should be considered in reaching a conclusion as to the questions asked by you.

Waters three miles seaward are within the boundaries of this State (*Ocean Industries* vs. *Superior Court*, 200 Cal. 235). A death might occur at many points within this limit where it would be impossible to land a vessel and permit a body to be taken to the county seat of the county in which the man actually died, nor would the law demand that a vessel postpone a voyage for the purpose of permitting a local autopsy.

In the matter under consideration it definitely appears that though a physician of San Luis Obispo County was able to board the ship at the pontoon wharf at Estero Bay, there were difficulties attendant upon removing the body to shore.

Under such circumstances we conclude it was the duty of the coroner of Contra Costa County to take possession of the deceased's body within the purview of Section 5 of the Vital Statistics Act, Chapter 378, Statutes of California, 1915. Certainly, as far as he was concerned the death occurred in this State and the body was found in his county.

The matter is somewhat akin to that discussed in *Huntly* vs. *Zurich etc. Co.*, 100 Cal. App. 201, at 214, where the Court said:

The evidence offered by plaintiff shows that no inquest was held in Los Angeles County. The performance of an autopsy was not the holding of an inquest. It also shows that upon the arrival of the body in San Francisco plaintiff was dissatisfied with the findings of the autopsy surgeon in Los Angeles; that she represented that her husband's death was sudden; that he had had a "terrible fall." She further expressed the idea that his death had been occasioned by violence of some sort and was not the result of natural causes. Under the circumstances, the body being within the city and county of San Francisco, and within the jurisdiction of the defendant, Leland, and he having been informed that no inquest had been held in the county of Los Angeles, and there being a question as to the cause of death as expressed by the plaintiff, the coroner acted within his authority in ordering an inquest held, and in authorizing his autopsy surgeon to proceed in the usual manner.

The decision of the question as to whether an inquest is necessary rests in the sound discretion of the coroner, and there is nothing in the record to counteract the presumption that he regularly performed his duty as coroner. . . .

Your first question is answered in the affirmative and your second and third in the negative.

The law does not demand the impossible. As the coroner of San Luis Obispo County did not have possession of the body and could not get the same, it was properly examined and disposed of in Contra Costa County. The coroner of the first-named county cannot possibly add further to the information already on file in the Bureau of Vital Statistics.

Very truly yours,

U. S. WEBB, *Attorney-General.*
By LIONEL BROWNE, *Deputy.*

SPECIAL ARTICLES

MEDICAL JURISPRUDENCE*

By HARTLEY F. PEART, ESQ.
San Francisco

Malpractice Liability of Physicians Employed in State, County, or Other Publicly Owned Hospitals: Absence of Liability of State, County, or Other Governmental Agency.

On November, 4, 1936, the Attorney-General of the State of California rendered the following significant opinion to Colonel Nelson M. Holderman, Commandant of the Veterans' Home of California:

Dear Sir:—I have before me your communication under date of October 20, 1936, which is as follows:

"I have been instructed by the Board of Directors of the Veterans' Home of California to direct you a communication requesting an opinion as to whether or not any suit of malpractice or damages could be brought against our surgeon or assistant surgeons by any dissatisfied member of the Home."

I am aware of no reason why a surgeon or assistant surgeon at the Veterans' Home of California should not be subject to suit for malpractice or damages by a dissatisfied member of the Home, or by any other person.

Whether or not a judgment could be secured against such surgeon or assistant surgeon in any such action would, of course, depend upon the facts in the particular case.

Assuming that the basis of the inquiry which you present upon behalf of the Board of Directors of the Home is for the purpose of ascertaining whether or not there is any exemption from suit extended to such surgeon or assistant surgeon, your question should be answered in the negative.

The Attorney-General's opinion suggests the important question: What is the liability of a physician employed in a county hospital, state hospital, asylum or home, or in a municipally owned hospital for negligence (*i. e.*, malpractice)? It also raises another question: If a physician employed in a state, county or municipally owned hospital is negligent in his treatment of a patient therein, is the governmental agency that owns the hospital liable to a civil action for damages brought by the patient?

The Attorney-General's opinion reaches the conclusion that a physician employed in a state-owned institution is legally responsible for malpractice with respect to any patient therein to whom he may negligently render professional services. In other words, a physician employed by a governmental agency to render professional services to patients furnished by the governmental agency is just as liable to be sued for malpractice as a physician who is engaging in private practice and renders professional services to his own private patients. The Attorney-General's opinion is in accord with the general law on this subject. In Volume 21 of California Jurisprudence at page 908, we find the following statement of the law:

It is elementary that a public officer is liable to respond in damages to one specially injured by his negligence or

*Editor's Note.—This department of CALIFORNIA AND WESTERN MEDICINE, containing copy submitted by Hartley F. Peart, Esp., has been established by the California Medical Association Council. Each issue will contain excerpts from and syllabi of recent decisions and analyses of legal points and procedures of interest to the profession. These will be compiled by Mr. Hartley F. Peart, General Counsel of the Association.